



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

JOHN T. WINBURN  
100 BOSCH BOULEVARD  
NEW BERN, NC 28562

**COPY MAILED**

MAY 22 2006

In re Application of	:	<b>OFFICE OF PETITIONS</b>
Michael Steffl	:	
Application No. 10/771,659	:	DECISION ON PETITION
Filed: February 4, 2004	:	UNDER 37 CFR 1.183
Attorney Docket No. 2001P15152WOUS	:	

This is a decision on the petition filed March 20, 2006, which is being treated as a renewed petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/EP02/09397, filed November 21, 2001, as set forth in the Application Data Sheet (ADS) received November 22, 2005. This is also a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t).

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The requirements noted above have been satisfied. However, as noted in the decision mailed

April 20, 2006, petitioner must now file a petition to withdraw from issue under 37 CFR 1.313(c)(2) or 1.313(c)(3) as the issue fee has been paid. No amendments to the application will be considered under 37 CFR 1.312 after payment of the issue fee unless accompanied by a grantable petition to withdraw from issue. If the petition is filed under 37 CFR 1.313(c)(2), the petition must be accompanied by a request for continued examination pursuant to the provisions of 37 CFR 1.114. The Application Data Sheet can be the submission requirement of 37 CFR 1.114. If the petition is filed under 37 CFR 1.313(c)(3), the petition should also be accompanied by a letter of express abandonment in favor of the filing of a continuing applicant pursuant to the provisions of 37 CFR 1.53(b). *Note also MPEP § 1481.*


Further correspondence with respect to this matter should be addressed as follows:

By mail:                      Mail Stop PETITIONS  
                                    Commissioner for Patents  
                                    Post Office Box 1450  
                                    Alexandria, VA 22313-1450

By hand:                     Customer Service Window  
                                    Mail Stop Petitions  
                                    Randolph Building  
                                    401 Dulany Street  
                                    Alexandria, VA 22314

By fax:                        (571) 273-8300  
                                    ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

  
Frances Hicks  
Petitions Examiner  
Office of Petitions